Local Government Mandate Statement Kentucky Legislative Research Commission 2020 Regular Session

Part I: Measure Information

Bill Request #: 94
Bill #: SB 11 GA
Document ID #: 2939
Bill Subject/Title: AN ACT relating to criminal damage to rental property.
Sponsor: Senator John Schickel
Unit of Government: X City X County Urban-County Unified Local
X Charter County X Consolidated Local X Government
Office(s) Impacted: Local Jails
Requirement: X Mandatory Optional
Effect on Powers & Duties: Modifies ExistingX Adds New Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

This legislation creates a new section of KRS Chapter 512 to specify that a tenant who, having no right to do so or any reasonable ground to believe that he or she has such right, intentionally or wantonly defaces, destroys, or damages residential rental property may be charged with violating KRS 512.020, 512.030, or 512.040 as appropriate, otherwise known as criminal mischief.

KRS 512.020 is criminal mischief in the **first degree**. It is a Class D Felony. This crime is applied when a tenant intentionally or wantonly defaces, destroys, or damages residential rental property and costs are \$1,000 or more.

Criminal mischief in the **second degree** (KRS 512.030) is a Class A misdemeanor and is applied when residential rental property is damaged or destroyed by a tenant and damage costs are \$500 or greater.

A tenant is guilty of criminal mischief in the **third degree** (KRS 512.040) when; a he or she intentionally or wantonly defaces, destroys or damages any property; or tampers with property so as to knowingly endanger the person or property of another. Criminal mischief in the third degree is a Class B misdemeanor.

Discussion with a large nonprofit housing provider that currently manages over 1,300 units, stated that over the past five years, there have been no instance of a tenant willfully damaging any of their units. Most damage they see are in vacant single-family units that are vandalized. This nonprofit has a mix of single-family and multifamily units. In the event a tenant intentionally caused damage, law enforcement would be contacted.

A large urban housing authority that owns and manages several thousand units indicated they have very few units, if any, that have ever been intentionally damaged. They have not previously reported damage to law enforcement and is not inclined to do so in the future.

A large for profit management company stated they have over 11,000 units in their portfolio. They have approximately 4,000 rental unit turnovers in the course of a year. Of these, they reported that approximately twenty units had damage that exceeded \$1,000 and they did not think that any of these were intentionally damaged. In the event it was determined damage was intentional, law enforcement would be contacted.

Overall, the expected fiscal impact to local jails is indeterminable, but any impact is expected to be minimal.

Class B and Class A misdemeanors:

A person convicted of a Class B misdemeanor may be incarcerated for up to 90 days. A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 77 full service jails or three life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average of \$31.34 per day.

Class D felons:

When a court denies bail to a Class D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 77 full service jails or three life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Upon sentencing, a Class D felon is housed in one of Kentucky's full service jails for the duration of his or her sentence. The Department of Corrections pays a jail \$31.34 per day to house a D felon. Since the per diem pays for the estimated average cost of housing a Class D felon, the per diem may be less than, equal to, or greater than the actual housing cost.

Part III: Differences to Local Government Mandate Statement from Prior Versions

The LM statement to SB 11 GA is the same as the LM statement to SB 11 as introduced. The Senate adopted the Senate Committee Amendment and did not adopt any additional amendments.

SB 11 SCA made only one technical change to the bill as introduced. It deleted language **requiring** that violators be charged and substituted with language allowing the charge to be permissive. The word "shall" was replaced by the word "may" in Section 1 (2).

Data Source(s): LRC Staff

Preparer: Mark Offerman **Reviewer:** KHC **Date:** 1/24/20